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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,393	08/23/2001	William Kress Bodin	AUS920010655US1	9825
45993	7590	03/19/2008		
IBM CORPORATION (RHF) C/O ROBERT H. FRANTZ P. O. BOX 23324 OKLAHOMA CITY, OK 73123			EXAMINER CASLER, TRACI	
			ART UNIT	PAPER NUMBER
			3629	
			MAIL DATE	DELIVERY MODE
			03/19/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/935,393	<b>Applicant(s)</b> BODIN, WILLIAM KRESS	
	<b>Examiner</b> Traci L. Casler	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is in response to papers filed on December 18, 2007.

Claims 1, 5, 11, 15 and 21-30 have been amended.

Claims 1-30 are pending.

Claims 1-30 are rejected.

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on December 18, 2007 has been entered.

### ***Claim Objections***

2. Claims 12-20 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim, claims 12-20 switch statutory classes as the preamble states "The computer readable medium "of Claim 11, however claim 11 has now been amended to be an article. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 112***

3. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As claimed the examiner is uncertain as to what the

applicant intends the Article to be. Furthermore, claim 11 fails to impart a transitional phrase separating the preamble from the body of the claim which one is unable ascertain what/where the applicant intends for the actual invention limitations begin.

4. Claim 11 recites the limitation "said software " in 4<sup>th</sup> line. There is insufficient antecedent basis for this limitation in the claim.

5. \*\*\*\*For the purpose of examination the examiner is reading the article to be the computer readable medium, which applicant intend the software to be embedded on the be medium and read by a computer\*\*\*

6.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5, 10-15, 20-25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 20020013144 Waters et al.; Targeted Information Display, Hereinafter referred to as Waters, in view of, US Patent Publication 20010028301 Geiger et al; Electronic Shopping Cart Display; Hereinafter referred to as Geiger.

9. As to Claims 1, 11 and 21 Waters teaches

10. responsive to a consumer moving from outside said proximity to inside said proximity of electronically establishing an identity of said consumer *Waters teaches detecting consumers with in a presence zone (proximity Pg. 2 ¶ 27)*

11. automatically accessing a persistent datastore to retrieve a set of preferences associated with said consumer identity; *(Waters teaches user ID being sent to the store processing system )* automatically determining if one or more products on said retail fixture match said preferences; and *(Waters shopping system determines the interest of the user.)*

12. activating said display unit indicator to indicate said products which match said preferences such that the attention of said proximate consumer is directed to the physical location of the matching products. *(Waters teaches activating the display unit to indicate products that match users interest Pg. 1 ¶ 18 & 19).*

13. Waters fails to teach the actual detection units and the display units being a part of the retail fixture "equipping a retail fixture with a consumer identification unit and with a display unit indicator, said consumer identification unit having an identification proximity, said display unit indicator being associated with a product on said retail fixture; "; However, Zehner teaches a updating unit that analyzes(identifies) consumer requests and triggers the display unit to display information which are both mounted on the retail display fixture(Pg. 13 ¶ 111). It would have been obvious to one of ordinary skill in the art at the time of invention to have mounted the identification and display unit on a retail fixture of products as done in Zehners system to execute the method of Waters. As in Zehner it is within the capabilities of one of ordinary skill in the art to

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attach an identification unit and a display unit to a retail fixture and display information/alerts to the customer with the predictable results of the display on the retail fixture displaying information about the product to the consumer that has been identified.

14. As to claims 2, 12 and 22 Zehner teaches the updating unit utilizing RF technology. (Pg 12 ¶ 108) It would have been obvious to one of ordinary skill in the art at the time of invention to combine Zehners RF technology with Waters short range receiver as Waters acknowledges the type of communication technology is not critical and any suitable technology can be utilized(Pg. 2 ¶ 25).

15. As to claims 3, 13 and 23 Waters teaches accessing a database(Pg. 2 27).

16. As to claims 4, 14 and 23 Waters teaches matching the consumer preferences with product information(Pg. 2 ¶ 26).

17. As to claims 5, 15 and 25 Waters teaches activating the display unite by displaying text illuminating etc.(Pg. 3 ¶ 34).

18. As to claims 10, 20 and 30 Zehners teaches accessing store inventory to determine if a product is in stock. It would have been obvious to one skilled in the art to combine Zehner's inventory access with Waters display because it is simply smart business practice to not mislead consumer by advertising products that are not currently available.

19. Claims 6-9, 16-19 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters/Zehner as applied to claims 1-5 ,10-15, 20-25 and 30 above, and further in view of US Patent 6,014,634; Scroggie et al. System and Method for

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Providing Shopping Aids and Incentives to Customers through a computer Network.;  
hereinafter referred to as Scroggie.

20. As to claims 6-9, 16-19 and 26-29 Waters/Zehner fail to teach transmitting associated data according to the match preferences electronically to a device of the user. Scroggie teaches electronically delivering email incentives to users based on their visit to the store(C. 13 l. 10-17). It would have been obvious to one of ordinary skill in the art at the time of invention to combine Scroggie with Waters/Zehner as it is smart business practice to continue to reward consumers for shopping at the store and include incentives that would encourage the consumer to return to the retail location.

### ***Response to Arguments***

21. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Traci L Casler/  
Examiner, Art Unit 3629

/John G. Weiss/  
Supervisory Patent Examiner, Art Unit 3629